

Moratorium on downtown Niwot development extended by Boulder County Commissioners

Amendment allows fine dining spot Colterra to move forward with plans to rebuild from last year's kitchen fire

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"It's all about the alley."

That line was uttered by multiple Niwot residents and business owners Tuesday at a Boulder County commissioners hearing on a proposal to extend a moratorium on development applications along Second Avenue between Murray Street and Niwot Road. Those who made the remark were referring to the alley behind the Second Avenue storefronts, which serves as a division between the commercial area and homes on Third Avenue.

Commissioners ultimately voted 3-0 to extend the moratorium for another six months, but with a major change to the original halt on development that was [put into place last month](#). That change will allow fine-dining spot Colterra Food and Wine to be rebuilt in the manner envisioned by owner Bradford Heap, who was supported by many of the dozens of people who addressed commissioners. County staff — recognizing residents and other business owners see Colterra's [closure since last October because of an overnight kitchen fire](#) as a major blow to the economic vitality and attractiveness of the Niwot area — exempted from the moratorium a northern portion of Second Avenue known as the Old Town Niwot Historical District that includes the Colterra site.

"The closing of Colterra has made a significant impact," resident Tony Santelli said in opposition to the moratorium, adding that any requests Colterra makes to hasten its reopening should be granted by the county.

"(Heap) had a terrific lunch business. He knows he was a flagship. ... Business as usual just does not work," Santelli said, noting business owners will be suffering through a second holiday season without the restaurant open.

Colterra earlier this year submitted a proposal to rebuild to its pre-fire size and layout. That request wouldn't have been affected by the moratorium, since it is not retroactive, but Heap has since decided to demolish the building and expand the restaurant's space. He is considering adding a residential element to the property — a proposal that could have been stopped by the moratorium had commissioners not exempted the Old Town Niwot Historical District.

Examining the allowed access points for vehicles to the 20-foot-wide, dead-end alleyway was one of the reasons county staff wanted to impose the moratorium on new building projects while updates are made to land use codes for the Niwot Rural Community District— which is comprised of the short Second Avenue stretch.

The alley, in the view of residents to the north, has become overused and congested partly due to trucks making deliveries to the rear of businesses, so much so that two-way vehicle traffic is often restricted.

Some homeowners have proposed limiting use by tenants on the alley's Second Avenue side, Boulder County Land Use Department Director Dale Case said, while business owners desire expanded use of the alley.

"Is it unreasonable to expect the county to regulate access to a county property, whether it is a street or an alley?" resident Jim Kalinski asked in expressing support for extending the moratorium.

But business owners contend Third Avenue homeowners have contributed to the alleyway's constriction with fences and weeds and other vegetation encroaching onto it from their residential properties.

Case said access to the alley is now only allowed for Second Avenue tenants and patrons via narrow driveways from Second, but business owners disagree; Heap said the alleyway has traditionally been used and accessed for product deliveries from its entrance on Franklin Street.

Bruce Warren, a Niwot attorney at the firm Warren, Carlson and Moore, wrote a letter to the commissioners opposing the moratorium, and claimed that a 1997 letter by Leslie Lacey of the Boulder County Attorney's Office stated all adjacent property owners to the alley can use it equally and improve it, so long they don't interfere with use by other adjacent property owners.

"(Lacey's) letter was valid then, and it is valid today, but for some reason, the Land Use Department has created a false expectation among Third Avenue property owners that they can restrict and interfere with the rights of Second Avenue property owners to use the alley," Warren wrote.

Niwot resident and owner of Osmosis Art and Architecture Anne Postle objected to the moratorium extension and said forcing vehicles to access the alley or parking spots adjacent to the alley from Second Avenue constitutes a safety risk to pedestrians and cyclists on the sidewalk vehicles would have to cross.

In addition to alleyway usage, Case and his staff said extending the moratorium would provide time to update land use regulations dealing with residential density, as well as to possibly create a mandate that nearby property owners are notified when new developments are proposed.

Commissioner Elise Jones said county reviews of development applications could do a better job of "proper inclusion of the residents who live on the alleyway and making sure they are a part of decisions."

"I'm not convinced we can do better unless we stop and have a community conversation and update the code," Jones said. "I can see the possibility that it will lead to a better outcome for the entire Niwot community, but also the business owners on Second Avenue, because I think there are some interesting decisions being made about access that don't make sense and aren't consistent."

Updated land use regulations for the Niwot area in question will come before commissioners in March for their potential approval, Case said.

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